

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT (PCT Article 36 and Rule 70)

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ART 34 AMDT



Applicant's or agent's file reference		FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/4-16)	
International application No. PCT/EP 03/14180	International filing date (day/month/year) 10.12.2003	Priority date (day/month/year) 23.12.2002	
International Patent Classification (IPC) or both national classification and IPC A61K7/06			
Applicant UNILEVER PLC et al.			

- This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
- This REPORT consists of a total of 4 sheets, including this cover sheet.

☒ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

 These annexes consist of a total of 3 sheets.

- This report contains indications relating to the following items:
 - I ☒ Basis of the opinion
 - II ☐ Priority
 - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☐ Lack of unity of invention
 - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application

Date of submission of the demand 09.07.2004	Date of completion of this report 27.01.2005
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**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No.

PCT/EP 03/14180

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17):*

Description, Pages

1-34 as originally filed

Claims, Numbers

1-15 filed with telefax on 08.12.2004

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☒ the claims, Nos.: 16-19
- ☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/EP 03/14180**

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	1-16
	No: Claims	
Inventive step (IS)	Yes: Claims	1-16
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-16
	No: Claims	

2. Citations and explanations

see separate sheet

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/EP 03/14180

Re Item V

*Reasoned statement with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement*

1. Reference is made to the following documents:

D1: EP-A-0 799 612 (KAO CORP) 8 October 1997

D3: EP-A-0 338 850 (COLGATE PALMOLIVE CO) 25 October 1989

2. Novelty (Article 33(2) PCT)

Document D1, which has previously been cited as relevant for the novelty of the subject-matter of the present application, does not contain climbazole as antidandruff agent.

The subject-matter of the new filed claims can therefore be considered as novel according to Article 33(2) PCT.

3. Inventive step (Article 33(3) PCT)

Document D3 is regarded as being the closest prior art for the subject-matter of claim 1, because it is concerned (page 2 lines 31 to 34, page 3 lines 42 to 55 and examples 2 to 4) with shampoo compositions containing climbazole as antidandruff agent. The subject-matter of claim 1 differs from the disclosure of document D3 in that the surfactant system containing further an alkyl amphoteric surfactant (i.e. compound (C)).

The Applicant has shown in the application that the presence of compound © improve the deposition of the climbazole and the mildness of the composition.

Document D1, which discloses (cf. page 2 lines 32 to 47, page 4 line 32, page 6 lines 27 to 36, page 8 lines 34 to 54 and example 5) detergent compositions, having antidandruff properties to the scalp, and contains a sulfate ester surfactant, an amphoteric surfactant (i.e. sodium cocoamphoacetate) and a cationic bactericide (i.e. benzethonium chloride as anti-dandruff agent), does not pose the problem of the antidandruff deposition to the scalp. The skilled person would have therefore not been particularly encouraged to introduce sodium cocoamphoacetate in the composition of document D3 to solve the problem posed by the applicant (improvement in active deposition and mildness of the composition).

The subject-matter of claims 1 to 16 can therefore be considered to involve an inventive step according to Article 33(3) PCT.